

STATE WATER CONTROL BOARD ENFORCEMENT ACTION

SPECIAL ORDER BY CONSENT

ISSUED TO

SANDY’S MOBILE COURT, INC.

(VPDES Permit No. VA0088811)

SECTION A: Purpose

This is a Consent Special Order issued under the authority of Va. Code § 62.1-44.15(8a) and (8d), between the State Water Control Board and Sandy’s Mobile Court, Inc., for the purpose of resolving certain violations of environmental laws and regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. “Va. Code” means the Code of Virginia (1950), as amended.
2. “Board” means the State Water Control Board, a permanent citizens’ board of the Commonwealth of Virginia as described in Va. Code §§ 10.1-1184 and 62.1-44.7.
3. “Department” or “DEQ” means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. “Director” means the Director of the Department of Environmental Quality.
5. “Order” means this document, also known as a Consent Special Order.

6. “STP” means sewage treatment plant.
7. “Sandy’s” means Sandy’s Mobile Court, Inc., which owns and operates the Sandy’s Mobile Court STP.
8. “Facility” and “Plant” means the Sandy’s Mobile Court STP located in Frederick County, Virginia.
9. “VRO” means the Valley Regional Office of DEQ, located in Harrisonburg, Virginia.
10. “Permit” means Virginia Pollutant Discharge Elimination System Permit No. VA0088811, which became effective December 29, 1999 and expires December 28, 2004. Permit limits include pH, carbonaceous biochemical oxygen demand [“CBOD”], total suspended solids [“TSS”], dissolved oxygen [“D.O.”], ammonia, and total residual chlorine [“TRC”].
11. “2000 Order” means the Consent Special Order that became effective April 9, 2000.
12. “NOV” means Notice of Violation.
13. “Regulation” means the VPDES Permit Regulation 9 VAC 25-31-10 et seq.
14. “P.E.R.” means preliminary engineering report.
15. “O&M” means operations and maintenance.
16. “VDH” means Virginia Department of Health.

SECTION C: Findings of Fact and Conclusions of Law

1. Sandy’s owns and operates a wastewater treatment facility serving approximately 110 mobile homes in Frederick County, Virginia. This Facility is the subject of VPDES Permit VA0088811, which allows the Facility to discharge treated wastewater to an unnamed tributary to Crooked Run in the Shenandoah River subbasin, Potomac River basin.
2. The Permit issued on December 29, 1994, contained a four-year schedule of compliance to meet final effluent limitations for BOD, TSS, dissolved oxygen, and ammonia. The Permit required Sandy’s to meet final limitations by December 29, 1998. Sandy’s did not come into compliance with all of those limitations.
3. The Facility is presently subject to the 2000 Order. The 2000 Order required Sandy’s to provide Plant upgrades to meet the Permit’s final effluent limitations for BOD, TSS,

D.O., TRC and ammonia. The 2000 Order contained Phase I and Phase II corrective actions. Sandy's completed the Phase I and Phase II corrective actions in February 2001, however, the upgraded Facility was unable to comply with the Permit's ammonia final effluent limitations and began to experience violations.

4. DEQ issued NOV No. W2002-12-V-0003 on December 18, 2002, to Sandy's for apparent violations of ammonia and dissolved oxygen effluent limits occurring during the period from May 2002 through October 2002 and for Consent Order schedule violations occurring during the period from May 2002 through December 2002.
5. On January 29, 2003, DEQ met with Sandy's in an informal settlement conference to discuss the December 18, 2002, NOV and resolution of the violations. The January 29, 2003, meeting included discussions of the Plant operations and the need for a plan and schedule of corrective actions to return the Plant to compliance with final effluent limitations.
6. DEQ issued NOV No. W2003-03-V-0003 on March 6, 2003, to Sandy's for apparent ammonia effluent violations occurring during the period from November 2002 through January 2003.
7. By submittal dated February 26, 2003, Sandy's, via their consultant, provided a written plan of corrective actions to return the Facility to compliance with the Permit's requirements. Sections of this plan and schedule have been incorporated into Appendix A of this Order.
8. In addition to the effluent violations cited in the NOV, the Facility experienced exceedances of CBOD and ammonia effluent limitations, during the period February 2003 through March 2003, that were not cited in any enforcement notice.

SECTION D: Agreement and Order

1. Accordingly, the Board, by virtue of the authority granted it in Va. § 62.1-44.15(8a) and (8d), orders Sandy's, and Sandy's agrees, to perform the actions described in Appendix A and Appendix B of this Order.
2. This Order cancels and supersedes the 2000 Order.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Sandy's, for good cause shown by Sandy's, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the Notices of Violation issued to Sandy's by DEQ on December 18, 2002 and March 6, 2003. This Order shall not preclude the Board or the

Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.

3. For purposes of this Order and subsequent actions with respect to this Order, Sandy's admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Sandy's consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Sandy's declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by Sandy's to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Sandy's shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Sandy's shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Sandy's shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and

- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Director of the Valley Regional Office within 24 hours of learning of any condition above, which Sandy's intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Sandy's. Notwithstanding the foregoing, Sandy's agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Sandy's. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Sandy's from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
12. By its signature below, Sandy's voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of _____, 2003.

Robert G. Burnley, Director
Department of Environmental Quality

Sandy's Mobile Court, Inc. voluntarily agrees to the issuance of this Order.

By: _____

Title: _____

Date: _____

Commonwealth of Virginia

City/County of _____

The foregoing document was signed and acknowledged before me this

_____ day of _____, 2003, by _____,
(name)

who is _____ of Sandy's Mobile Court, Inc., on behalf of said corporation.

(title)

Notary Public

My commission expires: _____.

**APPENDIX A
SCHEDULE OF COMPLIANCE
SANDY'S MOBILE COURT, INC.**

1. **Not later than December 1, 2006**, Sandy's shall come into compliance with the Permit, State Water Control Law and the Regulation by either:
 - a. Connecting the Facility to public sewer and thereby eliminating all discharges from the Facility.
 - b. Installing an on-site disposal system approved by the local Department of Health and closing the Facility, thereby eliminating all discharges from the Facility.
 - c. Upgrading the Facility to meet the Permit's final effluent limitations.
 - d. Closure of the mobile home court and thereby eliminating all discharges from the Facility.
2. **Not later than March 1, 2004**, Sandy's shall submit to DEQ, for review and approval, an approvable plan and schedule for coming into compliance with the Permit and the State Water Control Law and the Regulation by December 1, 2006. Such plan shall specify one of the options listed in Paragraph 1 as the method chosen to comply. Sandy's shall respond to any comments from DEQ said compliance plan **with 30 days** of receipt. Upon its approval by DEQ said plan and schedule shall become a part of and enforceable under the terms of this order.
3. If Sandy's chooses the option 1.a, 1.b, or 1.d. above, Sandy's shall submit to DEQ, for review and approval, a complete closure plan for the Facility not later than **December 1, 2005**. The closure plan shall include a plan of action and schedule. Sandy's shall comply with the approved closure plan. Upon its approval by DEQ, said plan and schedule shall become an enforceable part of this order. Sandy's shall respond to any comments from DEQ regarding the closure plan **within 30 days** of receipt.
4. If Sandy's chooses to continue the Facility discharge and option 1.c above, then not later than **July 2, 2004**, Sandy's shall submit to DEQ a complete and approvable Permit application.
5. Sandy's shall submit quarterly progress reports to DEQ, with the first report being due **October 10, 2003**. Subsequent Progress Reports will be due by **January 10, April 10, July 10, and October 10**, along with the Facility's Discharge Monitoring Report until the cancellation of the Order. The quarterly progress reports shall contain:

- a. a summary of all work completed since the previous progress report in accordance with this Order.
 - b. a projection of the work to be completed during the upcoming quarter in accordance with this Order; and
 - c. a statement regarding any anticipated problems in complying with this Order.
6. No later than **14 days** following a date identified in the above schedule of compliance Sandy's shall submit to DEQ's Valley Regional Office a written notice of compliance or noncompliance with the scheduled item. In the case of noncompliance, the notice shall include the cause of noncompliance, any remedial actions taken, and the probability of meeting the next scheduled item.

APPENDIX B: INTERIM EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

During the period beginning with the date of entry of this Consent Special Order and lasting until July 1, 2006 or the completion of the Plant upgrade or closure of the plant as required in Appendix A, whichever is earlier, Sandy's shall limit and monitor the discharge from outfall 001 in accordance with the Permit except as specified below.

Such discharges shall be limited and monitored by Sandy's as specified below:

<u>EFFLUENT CHARACTERISTICS</u>			<u>DISCHARGE LIMITATIONS</u>				<u>MONITORING REQUIREMENTS</u>	
	<u>Monthly Average</u>		<u>Weekly Average</u>		<u>Min.</u>	<u>Max.</u>	<u>Frequency</u>	<u>Sample Type</u>
ammonia	10.3mg/L	0.58 kg/d	10.3 mg/L	0.58 kg/d	NA	NA	1/Month	Grab

NL = No Limitation, monitoring required

NA = Not Applicable